

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RUBEN YAGUDAYEV, A070238173,

Petitioner,

-v-

ERIC H. HOLDER, Attorney General of the
United States; JANET NAPOLITANO, Secretary
of the Department of Homeland Security;
MICHAEL T. PHILLIPS, U.S. ICE Field Office
Director for the Buffalo Field Office and
Warden of Immigration Facility;

Respondents.

DECISION and ORDER
10-CV-6673Fe



Petitioner Ruben Yagudayev, who is currently detained at Buffalo Federal Detention Center pursuant to a final order of removal, seeks relief pursuant to 28 U.S.C. § 2241 as more fully set forth in the petition. Petitioner also seeks permission to proceed *in forma pauperis* and has requested assignment of counsel.

IT HEREBY IS ORDERED as follows:

1. Petitioner's request to proceed as a poor person is granted.
2. Petitioner's request for assignment of counsel is denied as premature.
3. Within **45 days** of the service of this order, respondent shall file and serve an **answer** to the petition with the Clerk of Court which shall respond to the allegations of the petition. Alternatively, in the appropriate case, respondent may file a motion to dismiss the petition, accompanied by pertinent exhibits which demonstrate that an answer to the petition is unnecessary, by no later than **45 days** from service of this order.

Respondent also shall file and serve by the above date a **memorandum of law** with the Clerk of Court addressing each of the issues raised in the petition and including citations of relevant supporting authority. Respondent is directed to accompany all citations to sections of the Immigration and Naturalization Act with reference to the appropriate sections of 8 U.S.C.

Petitioner shall have **25 days** upon receipt of the answer to file a written response to the answer and memorandum of law (or motion to dismiss).

3. The Clerk of Court shall serve a copy of the application, together with a copy of this order, by certified mail, upon the following:

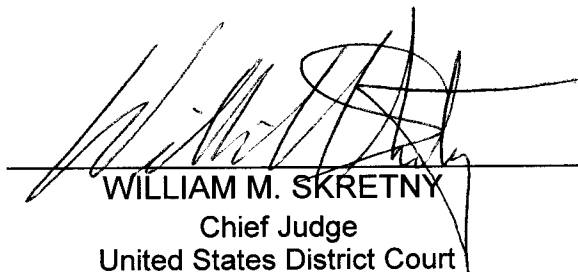
- Facilities Director, Buffalo Federal Detention Center, 4250 Federal Drive, Batavia, New York 14020;
- Buffalo Field Office Director, Detention & Removal Office, Immigration and Customs Enforcement Department of Homeland Security, 130 Delaware Avenue, Buffalo, NY 14202;
- Office of General Counsel, Department of Homeland Security, Washington, D.C. 20528;
- Acting Director, Bureau of Immigration and Customs Enforcement, 425 I Street, NW Washington, DC 20536;
- Attorney General of the United States, Main Justice Building, 10th and Constitution Avenues N.W., Washington, DC 20530;
- United States Attorney for the Western District of New York, Civil Division, 138 Delaware Avenue, Buffalo, New York 14202;

- James W. Grable, District Counsel for the Department of Homeland Security,
130 Delaware Avenue, Room 203, Buffalo, New York 14202.

**THE PETITIONER MUST FORWARD A COPY OF ALL FUTURE PAPERS AND
CORRESPONDENCE TO THE ATTORNEY APPEARING FOR THE RESPONDENT.**

SO ORDERED

Dated: 12/12, 2010
Buffalo, New York


WILLIAM M. SKRETNY
Chief Judge
United States District Court